

REMARKS

I. Summary of Office Action and Applicants' Reply

Applicants thank the Examiner for his time in participating in a telephonic interview on October 18, 2007 regarding this patent application. A summary of the telephonic interview is provided in Section II of this Reply.

Claims 1, 8, 46-51, 53-67, 69-76, 78, 80-88, and 90-123 were pending in the above-identified patent application. Of those, claims 1, 8, 72-76, 78, 80, 81, 104-117, and 122 have been withdrawn from further consideration as being drawn to a non-elected invention.

Claims 46-51, 53-67, 69-71, 82-88, 90-103, 118-121, and 123 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,790,642 to Taylor et al. ("Taylor") in view of U.S. Patent No. 6,161,099 to Harrington et al. ("Harrington").

The claim rejections are respectfully traversed.

II. Summary of October 18, 2007 Telephonic Interview

On October 18, 2007, the undersigned called the Examiner to discuss the September 21, 2007 Office Action, and, in particular, to discuss applicants' arguments regarding Taylor as set forth in the June 26, 2007 Reply to Office Action ("the Previous Reply"). The Examiner was informed by the undersigned that Taylor does not teach or suggest at least the transmission of "bidding data" as claimed. The Examiner was referred to the language of independent claim 46, which recites, "in the moderating computer, receiving bids to provide telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network, processing the bids to produce processed bid data, and storing the bids and the processed bid data in a data base of the moderating computer as first bidding data."

It was pointed out that it is this “bidding data” that is transmitted to the claimed “telecommunication Providers,” and the Examiner was informed that no such “bidding data” is transmitted in Taylor. Rather, it was pointed out that in Taylor, after bids are received by an originating service center, the originating service center simply selects the lowest bidding service center to make the call and sends the information required to the lowest cost service center. The Examiner was informed that such information is not “bidding data” as claimed, but rather information related to the completion of the call.

The Examiner acknowledged the distinction between Taylor and applicants’ claims, but requested that the arguments made during the interview be submitted in a formal response to the Office Action for further consideration.

III. The Claim Rejections

All of the claims -- independent claims 46, 53, 63, 82, and 88 and their respective dependent claims -- have been rejected under section 103 as being unpatentable over Taylor in view of Harrington. This is not the case, and it is respectfully submitted that the combination of Taylor with Harrington does not teach or suggest the combination of elements set forth in the independent claims, including at least the transmission of “bidding data” as explained during the October 18, 2007 telephonic interview and summarized above in Section II.

In particular, as set forth in the Previous Reply, Taylor discloses a system in which a plurality of service centers in a telecommunications network competitively bid for the rights to service a particular call. (Taylor, Abstract). An originating service center receives a request to transmit facsimile information to a specified telephone number, assembles a bid request, and transmits the bid request to bidding service centers. (Taylor, col. 7, ll. 51-67). Each service center includes a costing algorithm which parses the information in the bid request and

determines the cost to complete the call. (Taylor, col. 5, ll. 5-11). The calculated cost information (*i.e.*, bids) is transmitted from the bidding service centers back to the originating service center. (Taylor, col. 5, ll. 12-17). The originating service center compares the bids and selects the lowest bidding service center to make the call. (Taylor, col. 5, ll. 18-20). An instruction, or “contract” to make the call is sent to the lowest bidder. The information required, including any facsimile data to be transmitted, is sent to the lowest cost center, and the call is completed via the portion of the public switched telephone network associated with the lowest cost service center. (Taylor, col. 5, ll. 21-26).

Harrington discloses an apparatus and process for conducting municipal bond auctions over electronic networks. (Harrington, Abstract). The auctioneer in Harrington maintains a web site from which a user can obtain information about the bonds to be auctioned. (*Id.*).

Independent claim 46 recites a method for creating a bidding process among telecommunication Providers. As explained during the telephonic interview, the method includes, in a moderating computer, “receiving bids to provide telecommunication service . . . , processing the bids to produce processed bid data, and storing the bids and the processed bid data in a database of the moderating computer as first bidding data.” The method further includes, in the moderating computer, “transmitting at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers.” Thus, the claimed method advantageously provides bidding data to a bidding telecommunication Provider, so that the Provider could, for example, adjust its own bid in view of another Provider’s bid.

In sharp contrast to independent claim 46, Taylor fails to teach or suggest at least the transmission of the claimed “bidding data” to at least two telecommunication Providers. In fact, the bidding service centers described in Taylor are not provided with any “bidding data” at all,

thereby making it impossible for them to adjust their bids in view of the bids of other bidding service centers. Rather, only the originating service center receives bidding data. And, only the lowest bidding service center receives any further information from the originating service center once the bids are received. However, this information is not “bidding data” as claimed, but rather it is related to the completion of the call. (*See* Taylor, col. 5, ll. 21-24). In addition to the failure of Taylor to teach or suggest the transmission of “bidding data” as claimed, Harrington also fails to make up for this deficiency.

Accordingly, for at least these reasons, the combination of Taylor with Harrington fails to teach or suggest all the elements of independent claim 46. Therefore, claim 46 is patentable over the combination of Taylor with Harrington, and the rejection of the claim under section 103 should be withdrawn. In addition, dependent claims 47-51 and 118-119 are allowable at least because independent claim 46 is allowable. Thus, the rejections of dependent claims 47-51 and 118-119 are moot and should also be withdrawn.

Independent claims 53, 63, 82, and 88, and their respective dependent claims, are also patentable over the combination of Taylor with Harrington for similar reasons as independent claim 46, as each of these claims similarly involves providing a telecommunication Provider with data or information related to bids received from other telecommunication Providers. (*See*, e.g., element (b) of claim 53, element (b) of claim 63, element (c) of claim 82, and element (e) of claim 88). For the reasons set forth above, neither Taylor nor Harrington teach or suggest at least this aspect of the claimed approaches.

IV. Conclusion

Applicants respectfully submit that, as described above, the cited references do not show or suggest the combination of elements recited in the claims. Applicants do not concede that the

cited references show any of the elements recited in the claims. However, applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

In addition, each of the combinations of limitations recited in the claims includes additional limitations not shown or suggested by the cited references. Therefore, for these reasons as well, applicants respectfully request withdrawal of the rejection.

Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples applicant has described herein in connection with distinguishing over the prior art as limiting to those specific elements in isolation. Rather, applicants assert that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable. Applicants have emphasized certain elements in the claims as clearly not present in the cited references, as discussed above. However, applicants do not concede that other elements in the claims are found in the prior art. Rather, for the sake of simplicity, applicants are providing examples of why the claims described above are distinguishable over the cited prior art.

Applicants wish to clarify for the record, if necessary, that the claims have been amended to expedite prosecution. Moreover, applicants reserve the right to pursue the original subject matter recited in the present claims in a continuation application.

Any narrowing amendments made to the claims in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely applicants' best attempt at providing one or more definitions of what applicant believes to be suitable patent protection. In addition, the present claims provide the intended scope of protection that applicants are seeking for this application. Therefore, no

estoppel should be presumed, and applicants' claims are intended to include a scope of protection under the Doctrine of Equivalents.

Further, applicants hereby retract any arguments and/or statements made during prosecution that were rejected by the Examiner during prosecution and/or that were unnecessary to obtain allowance, and only maintain the arguments that persuaded the Examiner with respect to the allowability of the patent claims, as one of ordinary skill would understand from a review of the prosecution history. That is, applicants specifically retract statements that one of ordinary skill would recognize from reading the file history were not necessary, not used and/or were rejected by the Examiner in allowing the patent application.

For all the reasons advanced above, applicants respectfully submit that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, applicants respectfully submit that the Application is in condition for allowance, and that such action is earnestly solicited.

V. Authorization

The Director is hereby authorized to charge any additional fees which may be required for this Reply, or credit any overpayment, to Deposit Account No. 50-1817.

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Director is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby

authorized to charge any fee for such an Extension of Time or credit any overpayment for an
Extension of Time to Deposit Account No. 50-1817.

Respectfully submitted,
Wilmer Cutler Pickering
Hale and Dorr LLP

Date: November 13, 2007

A handwritten signature in cursive script, reading "L. A. Paquette", written over a horizontal line.

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